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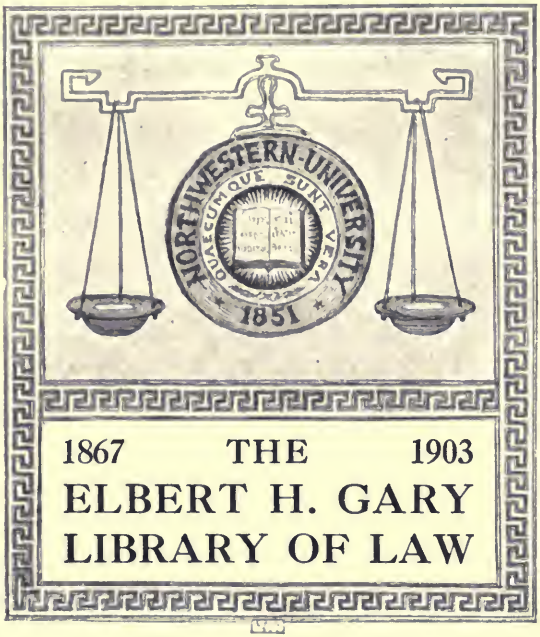
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TRANSLATION

OF THE

MINING LAW OF MEXICO

BY

ROBERT JOSEPH KERR

OF THE CHICAGO BAR

AUTHOR OF "A HANDBOOK OF MEXICAN LAW"

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PREFACE.

In pursuance of an announcement made nearly two years ago the Mexican Government has finally passed a new mining law which went into effect January 1, 1910. The fundamental principles of prior legislation remain unchanged, but the new law covers specifically a number of important matters that have developed since the law of 1892 was enacted and which have been from time to time more or less satisfactorily covered by the executive decrees which have been issued since the promulgation of the old law.

Some very important innovations are also introduced, notably the transfer of many suits involving mining titles and contracts from the state to the federal courts. This change, while new, is in harmony with prior legislation and will undoubtedly result in greater uniformity and security and will be of great benefit to mining men by making a familiarity with local state laws and procedure unnecessary. Even those matters still left within the jurisdiction of the state courts are removed from the operation of state laws and subjected to the provisions of the Civil Code of the Federal District and of the Commercial Code.

Another important feature of the new law is the extension of the right of expropriation, heretofore given to the owner of a mining property, to include the right to secure land for transportation and electrical transmission lines that may be needed in the conduct of his mining operations. Certain schemes for evading the strict operation of the old law are prevented in the new by stringent provisions regarding the reservation of mineral zones for exploration, the amendment of proceedings and the diligence to be observed in obtaining a final decision on each denouncement, all of which provisions benefit the mining operator

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who means business at the same time that they prevent the tying up of large areas supposed to contain mineral without actual work being done on them and without a complete compliance with the law.

In short, the Government of Mexico, by perfecting and extending the old law, has retained the confidence of the mining world and has laid the foundation for an era of safe and successful development of the mineral wealth of the country that will, within a very few years, without doubt result in the investment of a very large amount of capital to the mutual advantage of the country and the men whose money is thus invested.

ROBERT JOSEPH KERR.

Chicago, January 3, 1910.

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MINING LAW OF MEXICO.

CHAPTER I.

Of Mining Ownership and Its Conditions.

Art. 1. The following belong directly to the nation and are subject to the provisions of this law:

I. The products of all the inorganic substances which, occurring in either vertical or horizontal veins or in masses of whatever form, make up deposits whose composition is distinct from that of the rocks of the earth, such as deposits of gold, platinum, silver, copper, iron, cobalt, nickel, manganese, lead, mercury, tin, chromium, antimony, zinc and bismuth; deposits of sulphur, arsenic and tellurium; deposits of rock salt and of precious stones.

II. Placers of gold and of platinum.[1]

Art. 2. The following belong exclusively to the owner of the soil:

I. The products or deposits of combustible minerals of all forms and varieties.

II. The products or deposits of bituminous materials.

III. The products or deposits of salts which are collected on the surface.

IV. The springs of surface and subterranean waters, subject to the provisions of the common law and of the special laws regarding waters and without prejudice to the provisions of Article 9.

V. The rocks of the earth and the materials of the soil such as slate, porphyry, basalt and calcium carbonate and soils, sands and clays.

VI. Bog and float iron ore, placer tin and ochres.

Art. 3. The provisions of the Civil Code of the Federal District relative to ownership and its various subdivisions are applicable to the system of ownership of mining property as to everything not specifically covered by this Law.[2]

[1] See Articles 7, 70, 102.

[2] Articles 729 to 821 of the Civil Code of the Federal District. See Handbook of Mexican Law, pages 26 and 27.

Art. 4. The unit of mining ownership is called a pertenencia[3] and is a solid body of indefinite depth, limited to the land included within the four vertical planes bounding the projection of a horizontal square one hundred meters on a side. The mining pertenencia is indivisible as to all acts and contracts which affect its ownership.

Art. 5. A mining property[4] is understood to be the pertenencia or collection of contiguous pertenencias included in a primordial title or in a document transferring the ownership derived from such primordial title.

Art. 6. Whenever, in locating a mining property, it is not possible by reason of the mining boundaries to reduce it to complete pertenencias, the unreducible portion shall be called a demasia[5] and it will be understood for all legal purposes to be composed of as many pertenencias as there are hectaras comprised in its horizontal projection and the fraction of a hectara which may be left over shall be considered as one more pertenencia.

Whenever the unreducible portion is less in its horizontal projection than one hectara it shall likewise be called a demasia and shall be considered for all legal purposes as one pertenencia.

The Regulations[6] shall determine the form and terms in which pertenencias and demasias shall be located.[7]

Art. 7. The owner of a mining property has the right to extract and use all the substances referred to in Article 1 which

[3] This word is so universally used as a technical mining term that it will hereafter be treated as an English word. Its horizontal section exactly equals a horizontal hectara and is equivalent to 2.47104 acres.

[4] The term used in the original is *fundo minero*. A distinction is made, and clearly adhered to throughout the law, between *pertenencia* and *fundo minero*. The two terms are clearly defined in Articles 4 and 5. The latter refers only to properties on which the final title has been issued. Until the title is actually issued the location is known as pertenencias under denouncement.

[5] The literal translation of this word is "excess," but it is so generally used as defined above, under the mining law and practice of Mexico, that it seems desirable to retain the original word.

[6] These are adopted by the Department of Fomento, the executive department having jurisdiction over mines. The complete name of this department is *Secretaria de Fomento, Colonizacion é Industria*. The nearest equivalent of *fomento* that we have in English is "development," but as the department is almost universally referred to as the "Department of Fomento" that name is used throughout this translation. See page 33.

[7] See Articles 11 to 51; Regulations 13 to 36.

may be encountered on the surface or in the sub-soil of his property.

Art. 8. Mining operations may not be extended beyond the limits of a mining property according to the title thereof even when the property is bounded by unlocated land.

Art. 9. The owner of a mining property has the right to use and enjoy the waters which flow in its underground workings and therefore he may take them out and dispose of them with all the substances which they contain in suspension or solution.[8] He cannot, however, claim any indemnity when such waters are increased or diminished by reason of the drainage of other mining properties.

Whenever the appearance of water in underground workings results in the decrease or total stoppage of water in springs belonging to other persons the owners of such springs may recover the waters which belong to them but without depriving the owner of the mining property of what he may need to carry on his work and without being able to demand any damages whatever.

The transfer or loss of ownership of mining property carries with it the right to use and enjoy the water which is found in or which flows into the underground workings.

Art. 10. The mining industry is a public utility and therefore the owners of mining property have the right to expropriate property in the cases and under the conditions covered by this Law.

CHAPTER II.

Acquisition and Loss of Ownership of Mines.

Art. 11. The ownership of mines is acquired originally from the nation through a title granted by the Executive Power acting through the Department of Fomento after proper denouncement and the fulfillment of the other requirements provided by this Law.[9]

Art. 12. Denouncements of mining pertenencias will only be permitted in unlocated ground. Pertenencias, titles to which have been granted or in respect to which a denouncement is pending, shall not be considered as unlocated ground.

Art. 13. Nor shall the following be considered as unlocated ground until after the term of thirty days, counted from the date on which a notice to that effect shall have been posted on the bul-

[8] See Article 2 Paragraph IV.

[9] See Articles 149 and 152; Regulations 1 to 12.

letin board of the local Mining Agency, shall have transpired, to-wit:

I. Pertenencias, title to which may have been declared lapsed.

II. Pertenencias as to which a denouncement has been finally disallowed.

III. Pertenencias which may be declared unlocated by the Department of Fomento in conformity with this Law.[10]

Art. 14. A denouncement shall not be allowed when the denouncer is in default with respect to a prior denouncement covering either the whole or a part of the mining property being denounced. This incapacity shall last one year counting from the date on which such default may have been declared.

Art. 15. The denouncement shall be formulated in writing and in duplicate and in it shall be stated the name, age, occupation, nationality, legal residence and temporary address of the party denouncing, the substances which are particularly intended to be exploited, the number of pertenencias, their location on the ground, together with such data as may serve to identify them, the designation of the adjoining mineral properties when there are any, and the district in which the pertenencias are situated.[11]

Art. 16. The person denouncing shall accompany his petition with a certificate showing the deposit of the value of the stamps which, as provided by law, are to be attached to the mining title.[12]

Art. 17. The person denouncing shall designate approximately the number of pertenencias in the following cases:

I. When in the same denouncement all the boundaries of the mining property are defined with perfect clearness in such terms as that it can be easily identified on the ground.

II. When the pertenencias which are denounced are entirely surrounded by mining properties, the titles to which have all been granted or by pertenencias which have been denounced and measured.[13]

Art. 18. In the cases mentioned in the preceding article if the deposit made as provided in Article 16 includes a greater

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[10] See Regulations 7 and 36.

[11] See Article 17; Regulations 13 to 17.

[12] See Articles 18, 34 and 36.

[13] See Article 18.

amount of money than that actually due, the excess shall be returned to the party denouncing.

If the deposit is less, the party denouncing shall immediately make up the difference, the denouncement being considered abandoned if he does not comply with this obligation.

Art. 19. Each denouncement shall comprise one single pertenencia or a collection of contiguous pertenencias. But a denouncement may comprise pertenencias which are not contiguous under the following conditions:

I. When, within the perimeter indicated by the denouncement, there are included mining properties, titles to which have already been issued or pertenencias which have already been denounced.

II. When all the pertenencias denounced are located upon the same mineral body and are situated within the district allotted to the same Mining Agency.

Art. 20. The denouncement shall be made in person by the party denouncing or by his lawful representative or by an attorney in fact, who must show his authority by a public document or by a letter power of attorney.[14] In the last case it will be necessary for the principal to ratify the letter power of attorney through the medium of a public document or declaration in court within the term of sixty days immediately following the making of the denouncement.[15]

Art. 21. The Mining Agent shall receive the denouncement, note it in his register and endorse upon the register and on the original and duplicate of the denouncement the day and hour of the presentation of the same.[16] The person denouncing may demand that these notations shall be made in his presence. If, in the judgment of the Agent, there is not sufficient clearness in the denouncement he shall require of the person presenting it the necessary explanations and shall endorse these on the original, on the duplicate and on the registry book. Failure to make such explanations shall not constitute cause for refusing to register the denouncement.[17]

Art. 22. The requirements of the preceding article shall be observed even when simultaneous or successive denouncements,

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[14] A simple power of attorney executed before two witnesses. See Handbook of Mexican Law, page 202. See also Regulations 17.

[15] See Article 49.

[16] See Regulations 7 and 8.

[17] See Article 22.

covering the same pertenencias, are involved, without prejudice to the provisions of Article 24.

Art. 23. Within the third day after the presentation of a denouncement the Agent shall determine whether or not it ought to be admitted. In the event of an affirmative decision he shall continue with the proceedings for issuing the title.[18] In the event of a negative decision he shall express in writing the reason for his conclusion, which shall be reviewable by the Department of Fomento upon the petition of the person denouncing.

Art. 24. Whenever two or more denouncements presented simultaneously and referring to the same pertenencias have been declared admissible, that one shall be perfected which shall be determined by lot, unless the ownership is determined by agreement between the interested parties.[19]

Art. 25. The proceedings shall include the naming of an expert to measure the property and make a map thereof, the publication of an extract of the denouncement and of notice that there have been presented to the Agency the report of the expert and the objections, whenever there are any.[20]

Art. 26. Whenever the time provided for the proceedings for perfecting title to the property denounced shall have transpired without any objections having been filed such as would occasion the suspension of administrative proceedings, the Mining Agent shall send to the Department of Fomento a copy of the proceedings in the state in which they then are.[21]

Art. 27. The Department of Fomento shall examine the proceedings and if it should decide to approve the same it shall designate a term within which the proper monuments are to be constructed and those which may have already been constructed are to be approved, giving notice thereof to the denouncer.[22] When the person denouncing has complied with this requirement the title shall be issued to him and this carries with it the legal possession of the property without any other formality being required.[23] If the person denouncing does not put up the monuments within the time which may have been indicated he shall be declared in default.[24]

[18] See Article 25; Regulations 18.

[19] See Article 22; Regulations 15.

[20] See Regulations 18, 19, 21 to 36.

[21] See Regulations 21 and 31.

[22] See Regulations 32.

[23] See Articles 151 and 152; Regulations 34.

[24] See Article 52; Regulations 32.

Art. 28. The Department of Fomento shall disapprove of the proceedings whenever the denouncement or any of the proceedings are defective by reason of an infraction of the Law or of the Regulations if such infraction is chargeable to the person denouncing. In such case the approval of the proceedings operates to place the person denouncing in default.

Art. 29. If the infraction of the Law or the Regulations is not chargeable to the person denouncing, the Department of Fomento, having before it all the proofs which may have been presented to it and which may be required in order to give proper judgment, shall order the amendment of the proceedings as to those points which may be defective.

Art. 30. The Department of Fomento shall order that any defects which there may be in the denouncement or in the proceedings shall be cured by whoever is responsible therefor, when such defects do not constitute infractions of this Law or of the Regulations. Whenever the person denouncing shall not comply with the orders of the Department of Fomento he shall be declared finally in default.

Art. 31. In cases where an infraction of the Law or of the Regulations or defects in the proceedings are chargeable to the Agent or to the expert, the Department of Fomento shall fix the responsibility upon the one or the other and enforce the same without prejudice to the rights of the person denouncing to demand indemnity for the damages and losses which he may suffer from whoever is responsible therefor.

Art. 32. The denouncer who shall fail to attend the meetings[25] or observe the provisions of this Law or of the Regulations shall be declared permanently in default. The Department of Fomento may excuse the default whenever the person denouncing shows that it was due to causes for which he should not be chargeable. In such case the proceedings shall be ordered reinstated so far as may be necessary, but the party denouncing shall not be permitted any further excuse if he shall default as to the new meeting or as to any step in the proceedings to which he may be cited.

Art. 33. The person denouncing who is not in default may abandon his denouncement at any time before the Department of Fomento takes final action in the proceedings.

Art. 34. Failure to furnish the stamps shall not result in a suspension of the proceedings, but the leaves of the documents shall be temporarily legalized with the seal of the Mining Agency.

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[25] See Regulations 39.

But the Department of Fomento shall require the deposit of the stamps before entering a final order in the proceedings. If the person denouncing shall not furnish the stamps within the term which may be fixed therefor he shall be declared finally in default.[26]

Art. 35. Failure to pay the fees of the Mining Agent at the time fixed by the Regulations[27] shall be ground for declaring the person denouncing finally in default.

Art. 36. In every case where proceedings are discontinued voluntarily or by operation of the law or when the party denouncing is found in default, the deposit made at the time the denouncement is entered shall be applied first to the payment of the stamps which may have been left off of the documents and in the second place to the payment of the fees of the Mining Agent, but if the amount of the deposit is not sufficient the person denouncing shall be compelled to pay the difference.[28]

Art. 37. The following are grounds for opposing a denouncement:

I. The partial or total encroachment upon pertenencias, the title to which has already been granted, which title has not been declared lapsed.

II. A prior denouncement legally filed covering a part or all of the same pertenencias.[29]

Art. 38. Any objection which is founded upon any of the points covered by the preceding article shall be formulated before the Mining Agent within the term fixed by the Regulations.[30]

Art. 39. Whenever an objection is filed a meeting shall be called to secure an agreement of the interested parties, the steps prescribed by the Regulations[31] being followed. If the parties are unable to agree they shall be notified at said meeting that they may have the objections determined by administrative or judicial action at their option.

Art. 40. If the parties do not exercise their option at once in favor of administrative action the proceedings for the issuance of the title shall be suspended and all the documents shall be sent

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[26] See Article 16.

[27] See Article 150; Regulations 12; Schedule 1 to 14, page 50.

[28] See Article 16 and 136.

[29] See Articles 43 and 115; Regulations 37, 41 and 43.

[30] See Regulations 21, 23, 31, 37, 42 and 44.

[31] See Regulations 38, 39, 40, 42 and 44.

within forty-eight hours to the judicial authority of the district in order that proper judicial proceedings may be instituted in accordance with the provisions of Chapter VIII of this law.[32]

Art. 41. In case that the parties exercise their option in favor of administrative action the proceedings shall be continued in order that at the proper time the Department of Fomento, hearing the party denouncing and the objector, may reach a definite conclusion as to the objections in accordance with the provisions of the Regulations.[33]

Art. 42. If the parties exercise their option in favor of administrative action they may not thereafter appeal to the courts. But if they should exercise their option in favor of judicial action they may thereafter, provided a final order has not been entered in court, submit the objections to the decision of the Department of Fomento.[34]

Art. 43. Any other objections to the proceedings than those expressed in Article 37 must be filed before the Mining Agent, but will not operate to suspend the proceedings. The Department of Fomento, when it receives the papers for revision, will examine the objections made and determine whether or not they should be considered. In case their decision is affirmative they shall require proof of the objections and shall render a decision thereon in accordance with the provisions of Articles 39 to 42. If the Department of Fomento disallows the objections the proceedings shall be conducted as if no objections had been made, the rights of the objector being preserved.[35]

Art. 44. The Department of Fomento, upon revising the proceedings, shall take into consideration the objections which may be presented to it, provided the objector shows that his failure to present objections to the Mining Agency is not chargeable to him.[36]

Art. 45. The objector who fails to attend the meeting for adjustment of objections shall be held finally in default. The Department of Fomento may nevertheless excuse said default when the objector shows that it was due to causes which are not properly chargeable to him. In such case the proceedings shall be ordered re-established so far as may be necessary except that the

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[32] See Articles 39, 42 and 107 to 123.

[33] See Regulations 21, 23, 31, 37, 42 and 44.

[34] See Articles 39, 40 and 43; Regulations 40 and 41.

[35] See Regulations 37 to 41, 43 and 44.

[36] See Regulations 44.

objector will not be permitted any excuse with regard to the new meeting which may be called.[37]

Art. 46. Petitions which have for their object a reduction of the number of pertenencias included in the denouncement can only be allowed within the first forty days of the proceedings. In no case shall such petitions have the effect of modifying the term within which maps of the property are to be presented.[38]

Art. 47. Petitions whose object may be to change a denouncement with the result of increasing the number of pertenencias comprised therein will not be permitted. Any increase must be covered by a new denouncement.

Art. 48. The decisions of Mining Agents made in the course of the proceedings are reviewable by the Department of Fomento at the petition of any interested party.[39]

Art. 49. The final title shall be issued in the name of the person denouncing without prejudice to the rights of any third party. In order to secure the issuance of the title in favor of any other person his right to receive the same must be established by a public instrument.[40]

Art. 50. The Department of Fomento may refuse to grant a mining title even when the proceedings have been legally carried through, provided there is some ground for refusing the same based upon some reason of public utility recognized by the law and provided further that the person denouncing is reimbursed for the legitimate expenses which he may have incurred in the course of the denouncement. If the reason for such action shall cease to exist the Department of Fomento shall make announcement to that effect, which shall be published as provided by the Regulations[41] to the end that the person denouncing who may have been refused a title may again petition for the same within ninety days. When this period has elapsed without the person denouncing having made use of such privilege the pertenencias shall be considered as unoccupied land.

Art. 51. The ownership of mining property shall lapse for failure to pay the taxes as provided by law.[42]

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[37] See Articles 32 and 39; Regulations 39.

[38] See Regulations 45.

[39] See Regulations 11, 19, 31, 40 and 44.

[40] See Article 20; Regulations 17 and 34.

[41] See Regulations 35.

[42] See Article 145.

CHAPTER III.

Reduction in the Number of Pertenencias Covered by Titles —Rectification of the Location of Pertenencias—Rectification of Titles—Subdivision of Mining Properties.

Art. 52. Whenever it is sought to reduce the number of pertenencias comprising a mining property, a petition for such reduction shall be presented to the proper Mining Agency accompanied by the title of said property.[43] The proceedings in this case shall include the making of new maps and the granting of a new title, the former one being cancelled.

When the new title has been issued the excess of land comprised in the first title shall be declared unlocated[44] and the interested party shall be given a certain time for the establishment of new monuments, the provisions of Article 27 being followed.[45]

Art. 53. A rectification of the location on the ground of pertenencias, title to which has been issued, may take place with the object of correcting said location to that designated in the denouncement and in the title. It shall not be necessary to issue a new title in order to accomplish such rectification.[46]

Art. 54. Whenever the location of pertenencias as indicated by the title does not correspond to that which was indicated in the denouncement a rectification of the title shall take place and a new title shall be issued, even when the location on the ground is in accordance with that indicated in the denouncement.[47]

Art. 55. When neither the location of the pertenencias on the ground nor that indicated in the title as issued are in accordance with the location as indicated in the denouncement there must be a rectification of the location and a new title must be issued.[47]

Art. 56. The rectification referred to in the three preceding articles may be made at the petition of the owner of the property or of the owners of adjoining properties who are interested therein or on the initiative of the Department of Fomento. In the last case the final judgment of the Department of Fomento shall leave unprejudiced the rights of the owner of the mining

[43] See Regulations 46 and 50.

[44] See Regulations 36.

[45] See Regulations 32.

[46] See Article 56; Regulations 47, 48 and 50.

[47] See Article 56; Regulations 48 and 50.

property and of the owners of adjoining properties who may believe themselves harmed thereby.

Art. 57. In every case where the location of pertenencias on the ground has to be modified the Department of Fomento shall fix a period for setting up the proper monuments, disobedience of such order being punishable as provided in Article 101. Said Department shall suspend proceedings for the issuance of a new title, if they are pending, until the monuments are duly established.[48]

Art. 58. The Department of Fomento at the petition of the owner of a property may order that the errors which may exist in a title may be corrected by administrative action without prejudice to the rights of a third party, provided such correction does not affect the location of the property. In the latter case a new title must be issued, the former being annulled.

Art. 59. Every rectification shall have for a basis the data which may have been stated in the denouncement.[49]

Art. 60. In order that a subdivision of a mining property into two or more properties may have any legal effect whatsoever new maps must be presented in accordance with the provisions of the Regulations[50] and new titles must be issued, the original title being cancelled. Before issuing new titles the provisions of Article 57 must be complied with.

CHAPTER IV.

Legal Easements.

Art. 61. Properties held under the common law shall support legal easements of passage, drainage, carriage of water, ventilation and transmission of electrical energy in favor of mining properties.[51] Mining properties are not subject to other legal easements than those of drainage and ventilation in favor of other mining properties.

Art. 62. The easement of passage, drainage and carriage of water which may be imposed upon properties owned under the common law in favor of mining properties shall be governed by the provisions of the Civil Code of the Federal District with reference to the rights and obligations of the dominant and servient

[48] See Article 60.

[49] See Regulations 26.

[50] See Regulations 49 and 50.

[51] See Articles 71, 72, 82, 84 and 109; Regulations 51.

estates[52] without prejudice to the provisions of the following article governing the easement of passage.[53]

Art. 63. The easement of passage shall include not only the right to pass over properties owned under the common law, but also the right of installing in a permanent manner across said properties cable transmission lines and other means of transportation authorized by the Regulations[54], which shall be destined exclusively to meet the needs of the exploitation of the mining property and which shall establish communication between such property and a public highway, railroad lines or reduction plants.

The width of the strip on which the easement referred to in the preceding article shall be imposed shall not exceed ten meters unless there is an agreement to the contrary.

Art. 64. The easement of ventilation imposed upon properties owned under the common law shall consist in the right of connecting the underground workings of mining properties with the surface for the sole purpose of affording necessary ventilation to such workings.

Art. 65. The easement of transmission of electrical energy over properties owned under the common law comprises the right to install aerial or subterranean lines from the point of production of the electrical energy to the mining property in which it is to be utilized, crossing over the intermediate properties. It also comprises the right of passage not only for the construction and repair of the lines installed but also for their protection.

The principles and rules governing the easement of passage are applicable to the easement of transmission of electrical energy so far as the same are compatible with the nature of the latter.[55]

Art. 66. The easement of drainage imposed upon mining properties consists in the right of establishing across and upon said properties shafts and subterranean communications for the purpose of draining the workings of other mining properties. This easement likewise includes the right of using for drainage of the dominant estate the shafts and workings which are utilized by the servient estate for the same purpose.[56]

Art. 67. The exercise of the easement referred to in the pre-

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[52] Civil Code, Articles 942 to 1058; see Handbook of Mexican Law, pages 33 to 38.

[53] See Article 63.

[54] See Regulations 51 and 52.

[55] See Articles 62 and 63.

[56] See Articles 67 and 70.

ceding article does not permit crossing a shaft or passing under it with drainage shafts or workings.

Art 68. The servient estate can use for its own drainage the same shafts and workings which the dominant estate may have opened for its drainage in the exercise of its easement.

Art. 69. The easement of ventilation imposed upon mining properties consists in the right of establishing communications across said properties for the purpose of ventilating other mining properties. This easement also includes the right of using for ventilation the workings of the servient estate, provided this use is not incompatible with the use for which they were originally constructed.[57]

Art. 70. In the use of the easements of drainage and ventilation referred to in Articles 66 and 69 the following rules shall be observed:

I. While the work of construction is being carried on the owner of the servient estate shall be entitled to employ an inspector for the protection of his interests. He shall also have the right of requiring that doors shall be placed in those places where the works intercept the workings of the servient estate, under the conditions fixed by the Regulations.[58]

II. Whenever in carrying on the work any of the substances mentioned in Article 1 are encountered in such quantities as to pay for working, the owner of the dominant estate shall remove them to the surface and shall notify the Department of Fomento and the owner of the servient estate. If the latter does not dispose of said substances within the term of sixty days from the date of said notice they shall remain on the surface at the risk of the owner of the servient estate.[59]

III. Whenever, in carrying on the work on unoccupied land, any of the substances mentioned in the preceding paragraph are found, the owner of the dominant estate, after giving notice to the Department of Fomento, shall dispose of such as he may have to extract in actually carrying on his work, but he shall not undertake the exploitation of the mineral body without ob-

[57] See Article 70.

[58] The police Regulations referred to in Articles 124, 125, 130, 133 and 153 will govern these cases. Those regulations have not yet been published.

[59] See Article 103.

taining a proper title. For this purpose he shall have the preferential right to make a denouncement for a term of thirty days from the date of discovery of the mineral body, and his right shall cover a zone of one hundred meters on each side of the center of the shaft.

IV. The right given to the owner of the servient estate in the final part of Paragraph I shall continue through all the term of the easement. He shall have the same right whenever he cuts with his own workings the works through which an easement upon his property is being exercised.

Art. 71. The easements referred to in this chapter may be established by any of the following methods:

I. By consent of the owner of the servient estate evidenced by public instrument.[60]

II. By determination of the Department of Fomento.

III. By judicial order.[61]

Art 72. In default of obtaining the consent of the owner of the servient estate, the owner of the dominant estate shall apply to the Department of Fomento, which, after hearing both parties, shall determine whether the easement should be allowed. In the event of an affirmative decision it shall determine the use and extent of the easement, the material conditions surrounding its institution and the indemnity which must be paid to the owner of the servient estate.[62]

Art. 73. The determination of the Department of Fomento which authorizes the institution of an easement shall be considered final if it is not objected to within the term of thirty days.[63]

Art. 74. If within the term fixed by the preceding article the owner of the servient estate presents objections, the Department of Fomento shall authorize the carrying on of the works by which the easement can be exercised, but shall require the owner of the dominant estate to first give a guaranty for the payment of the damages and losses which may be occasioned thereby.[64]

Art. 75. The determination referred to in the preceding article shall be communicated to the owner of the servient estate who may thereupon institute an action in court within the term

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[60] See Regulations 7.

[61] See Article 107.

[62] See Regulations 51.

[63] See Article 74.

[64] See Article 75.

of thirty days. If he does not do this the easement shall be finally allowed and an order shall be entered cancelling the guaranty.

Art. 76. If the Department of Fomento should determine that the easement should not be allowed or that it should be allowed on terms different from those covered by the petition, the party asking the establishment of the easement may seek it by judicial action within the term of thirty days, after which he shall lose his rights.

Art. 77. In order to authorize the institution of easements the Department of Fomento shall follow the provisions of the Civil Code of the Federal District[65] as to such points as may not be expressly covered by this law. For the institution of easements of drainage and ventilation the Department of Fomento shall take into consideration the advantages and inconveniences of the system which is proposed, in comparison with those of other known systems.

Art. 78. The extension of easements already established shall be governed by the rules prescribed herein for the establishment of easements.

CHAPTER V.

Mining Contracts—Recording.

Art. 79. The following are considered mercantile acts subject to the provisions of the Commercial Code[66] so far as they are not specially governed by the provisions of this law[67]:

I. Mining enterprises.
II. Contracts which have for their object the conveyance and exploitation of mines.
III. Contracts which are entered into with relation to the products of mines.

Art. 80. The value which the founders of a mining company assign to the properties or mining rights at the time of organizing such company shall be considered as fully established for all legal purposes.

Art. 81. No mining contract shall be rescindable on account of under or over-valuation.[68]

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[65] See note 52.

[66] See Handbook of Mexican Law, pages 105 and 110.

[67] See Article 123.

[68] The term used in the original is *lesión*. See Handbook of Mexican Law, page 56.

Art. 82. The offices of the Register of Commerce in the states, Federal District and territories shall keep a special book in which shall be recorded[69]:

I. The titles of mining properties.

II. The public documents and judicial and administrative orders which transfer or affect the ownership of mining properties or by virtue of which real rights with respect to the same are established or modified.

III. The public documents which contain an agreement to convey mining properties or pertenencias.[70]

IV. Public documents and judicial orders which affect the exploitation of mining properties.

Art. 83. The recording referred to in the foregoing article shall take place in the registry office of the municipality where the mining property is located.

Art. 84. The documents establishing mining easements upon properties held under common law titles shall be recorded in such recording offices as according to the law have jurisdiction over the servient estate.

Art. 85. The recording referred to in Paragraph III of Article 82 shall affect the rights of third persons for whatever term is fixed by the contract, provided it does not exceed two years counted from the date of recording even when a longer time is fixed during which the agreement is valid.

Art. 86. When any document which should be recorded is presented at the recording office within thirty days after the date on which it was executed if a public document, or on which an order was entered if it is a judicial order, the recording shall date back to the date of the document. If it is presented after the thirty days referred to, the recording will take effect as of the date of presentation of the document.

The recording of a public document coming from a foreign country shall be effective from the date when the certified copy of the protocolization of such a document is presented at the proper office.[71]

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[69] See Article 83; Regulations 7.

[70] See Article 85.

[71] See Handbook of Mexican Law, pages 176 and 189.

CHAPTER VI.

EXPROPRIATION.[72]

Art. 87. The owner of a mining property shall have the right of occupying such portion of the surface land within the limits of his pertenencias as may be strictly needed for buildings, machinery and other necessities of his mining work in order to utilize and exploit the substances brought to the surface and also for such machinery as may be required for the reduction of the minerals which come from his property and from properties adjoining it belonging to the same owner.

He shall also have the right to occupy both within and without the perimeter of his pertenencias, subject to the provisions of the Regulations, such land as may be necessary for the establishment of railways of a permanent character used in the development of his business.[73]

Art. 88. In the event of his inability to reach an agreement with the owner of the surface ground the owner of a mining property may appeal to the Department of Fomento to grant him the right of expropriation. That Department, having heard the parties, shall determine whether the petition should or should not be granted and in the event of an affirmative decision shall fix the amount of land which can be expropriated and the indemnity which the owner of the mining property must pay.[74]

Art. 89. The owner of a mining property shall have the right of temporarily occupying such portion of the surface as the Department of Fomento may indicate, provided he shall have deposited the amount of the indemnity subject to the order of the person whose land is taken. Such deposit must be made in the collector's office indicated by the Department of Fomento.

Art. 90. If the owner of the surface ground should oppose such taking of possession, the owner of the mining property may appeal to any competent court for the purpose of obtaining immediate possession of the land indicated in the finding of the Department of Fomento.[75]

Art. 91. An administrative finding which decrees an expropriation may be attacked in court by the owner of the surface provided he notifies the Department of Fomento of his objections

[72] See Articles 10, 107 and 118; Regulations 57.

[73] See Regulations 51, 52 and 57.

[74] See Regulations 57.

[75] See Article 95.

to the finding and institutes his action within the term of thirty days. If this period expires without his having fulfilled the conditions of this article he will be held to have finally consented to the finding of the Department of Fomento.[76]

Art. 92. If the owner of the surface has expressed himself as satisfied with the administrative finding or has not attacked it as provided in the preceding article or if said finding is finally confirmed by judicial order the owner of the mining property can appeal to any competent court asking that a deed of adjudication be executed to him, which will be signed by the judge in the event that the person whose land is taken refuses to appear and sign it within the term which the judge, in the exercise of his discretion, may indicate.[77]

Art. 93. If the judicial order modifies the terms in which expropriation has been authorized by the Department of Fomento the owner of the mining property will have the right given him by the preceding article whenever said order becomes final.

Art. 94. The finding of the Department of Fomento to the effect that the petitioner is not entitled to exercise the right of expropriation can be attacked judicially within the period of thirty days.[78]

Art. 95. Whenever the owner of surface ground is unknown or cannot be found, notice of the petition for expropriation shall be published for thirty days in the manner provided by the Regulations.[79] If, before the expiration of that term, anyone presents himself who proves that he is the owner of the land which is sought to be expropriated, the proceedings shall be carried through as provided in the foregoing articles, but if, within the period stated, no one establishes his rights as owner of the land, the Department of Fomento shall authorize the expropriation, first exacting the deposit of the indemnity which is determined upon, and the owner of the mining property may then appeal to any competent court in order to have a proper deed of adjudication executed in his favor. Anyone who thereafter establishes his right to the land expropriated shall have the right to take up said deposit, but he shall have no right to object to the administrative finding by which the expropriation has been allowed.

Art. 96. The person whose land has been taken by expropria-

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[76] See Article 92.

[77] See Article 93.

[78] See Article 119.

[79] See Regulations 58.

tion or anyone claiming under him shall have the right within the period of one year to get back the land taken or the proper portion thereof in the following cases:

I. Whenever expropriation has been allowed in order to carry on some work and the person thus allowed to expropriate does not begin the work within the term of one year or suspends the carrying on of the work within that term, unless prevented by *vis major*.

II. Whenever all or a part of the land taken is used for a purpose distinct from that for which the expropriation was allowed.

III. Whenever the title of the mining property for whose benefit the expropriation was allowed is declared lapsed.

In all these cases the person whose property has been expropriated or anyone claiming under him shall not be compelled to return any other sum than that which the person expropriating may have paid by way of indemnity or such proportion thereof as is represented by the land actually recovered. The suit to recover land cannot be instituted if the reason upon which it is based ceases to exist.

CHAPTER VII.

Penal Provisions.[80]

Art. 97. Crimes which may be committed in violation of this Law and the civil liability based thereon shall be subject to the provisions of the Penal Code of the Federal District, with such modifications as are included in the following articles.

Art. 98. The Mining Agent or the expert who is guilty of a falsehood or false statement in the discharge of his office shall be punished with a sentence of from five months to one year in

[80] See Article 107.

[81] Article 748 of the Penal Code is as follows: "A witness, expert, judge, clerk or actuary who fails to tell the truth as provided in the foregoing articles and those which define subornation or intimidation, besides suffering the punishment indicated in this chapter shall be sentenced to be deprived for five years of the right of being tutor, guardian, attorney in fact, expert and judicial receiver, and such persons shall be disqualified from being judges, jurors, arbiters, referees, assessors, representatives of intestate or absent persons, clerks, notaries, actuaries, brokers or judges of the Civil Register, and shall be prevented from engaging in any other employment or profession which requires a title or is public in character."

prison and a fine of the second class without prejudice to the provisions of Article 748[81] of the Penal Code providing for suspension and disability in similar cases.[82]

Art. 99. Whenever a Mining Agent or an expert is found guilty of acting falsely in collusion with the person denouncing or with the objector, such agent or expert shall be sentenced to the penalties indicated in Article 98, and the person denouncing or the objector shall be sentenced to minor arrest and to a fine of the first class. If he should have been guilty of bribery the rules regarding accumulation of punishments shall be applied to the case.

Art. 100. The expert who, in bad faith, omits to present within the proper time the maps and data regarding a mining denouncement shall be sentenced to the penalty of major arrest and a disqualification to discharge the duties of expert for a period of from one to five years.

Art. 101. Save in those cases where this Law provides otherwise, the Department of Fomento may order a correctional punishment up to one month of arrest or five hundred pesos fine, according to the gravity of the offense:

I. To the expert who through negligence or carelessness fails to present within the proper time the maps and data relative to a mining denouncement.

II. To the Mining Agent who, in the course of denouncement proceedings where there is an objection or any other special proceeding, shall infringe the provisions of this Law or of the Regulations.

III. To the Mining Agent, expert or other person who, intervening in mining proceedings, shall disobey the orders of the Department of Fomento entered in accordance with the provisions of this Law or of the Regulations.

IV. To whoever infringes the Regulations and other provisions concerning the policing and guarding of mining work.[83]

Art. 102. Whoever, without any right, exploits any of the substances mentioned in Article 1 of this Law, unless he can show that he has acted through error, shall be punished as follows:

I. If the exploitation takes place in unoccupied land or in pertenencias which have been denounced or in pertenencias, the title to which has been issued, the punish-

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[82] See Article 99.

[83] See Article 57.

ment shall be from one to two years in prison and a fine of from one thousand to two thousand pesos.[84]

II. If the person denouncing a property exploits it before obtaining his proper title he shall be condemned to the punishment of major arrest and to a fine of the second class.

Art. 103. In the cases covered by Paragraph II of Article 70 if the person carrying on the work disposes of the minerals he shall be condemned to the punishment indicated in Paragraph I of the foregoing article (102).

Art. 104. Stealing of minerals by operatives or employees of a mining concern shall be considered as covered by the provisions of Paragraph V of Article 384 of the Penal Code.[85]

Art. 105. Whoever destroys or changes the location of monuments or marks which, either on the surface of the land or underground, indicate the boundaries of a mining property shall be condemned to the punishment provided by Article 497 of the Penal Code.[86]

Art. 106. Disobedience and resistance by private persons who hinder the operations entrusted to experts shall be punished in accordance with the provisions of Chapter IX, Title VIII, Book 3, of the Penal Code.[87]

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[84] See Article 103.

[85] Paragraph V. of Article 384 of the Penal Code is as follows: "The Punishment is two years in prison in the following cases: V. When robbery is committed by operatives, workmen, apprentices or pupils in the house, shop or school in which they habitually work or study or in any dwelling house, office, warehouse or other place to which they have free access in the character indicated."

[86] Article 497 of the Penal Code is as follows: "Whoever stops up the ditches or pits which serve as boundaries of a property or destroys the fences, posts or monuments or other landmarks which indicate its boundaries shall be punished by arrest for from eight days to six months and by a fine of from ten to two hundred *pesos*.

But if the motive actuating the wrong-doer was to take possession of the land of another or to mix up boundary lines which are in dispute in a suit at law or to steal the materials of which said landmarks are formed, the punishment will be from three to twelve months of arrest and a fine of the second class."

[87] See Regulations 22 and 29.

CHAPTER VIII.

Suits at Law.

Art. 107. The federal tribunals are given jurisdiction over suits involving the following matters[88]:

I. Objections to denouncements or to the granting of mining titles.[89]

II. Objections to the rectification of titles or the location of pertenencias to which titles have been issued.[90]

III. Actions to annul mining titles.[90]

IV. Actions to expropriate land for mining purposes.[91]

V. Legal mining easements.[90]

VI. Crimes committed which are infractions of the provisions of this law as set out in Chapter VII.[92]

VII. Crimes committed which endanger the safety of mining operations or the lives of the operatives in the underground workings.[92]

Art. 108. In the cases referred to in Paragraphs I, II, III and IV of the preceding article, the jurisdiction is determined by the location of the mining property involved. In cases arising under Paragraph III of said article if the nullity of a title is alleged before a judge of the Federal Court the judge before whom the objection is made will be competent to pass upon the validity of the title.[93]

Art. 109. In actions relating to legal easements the jurisdiction will be governed by the location of the dominant estate.[93]

Art. 110. In the cases covered by the two preceding articles, if the mining property is subject, by reason of its location, to more than one jurisdiction, that court will have jurisdiction which is chosen by the plaintiff.

Art. 111. The judge who has jurisdiction in the place where the crime is committed will have jurisdiction of the criminal actions referred to in Paragraphs VI and VII of Article 107 and if more than one judge is competent the one who first takes action will have jurisdiction.

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[88] See Articles 122 and 123.

[89] See Articles 40 and 42.

[90] See Articles 112, 116 and 117.

[91] See Articles 118 and 119.

[92] See Articles 108, 110, 111 and 120.

[93] See Article 110.

Art. 112. In the actions wherein the objections referred to in Paragraphs I and II of Article 107 are being considered, the person denouncing or the one who has petitioned a rectification will always be considered as the plaintiff. The term within which a complaint shall be filed shall be thirty days.[94]

Art. 113. If the term referred to in the preceding article should elapse without any complaint having been filed the judge, at the petition of the opposing party, will enter an order in favor of the defendant and will return the record of administrative proceedings to the proper office.

Art. 114. The defendant must base his objections on those matters which he may have expressly alleged in due time during the administrative proceedings.

Art. 115. In the consideration of objections based upon the provisions of Article 37 the person denouncing shall enjoy the presumption that the land is unoccupied if the objections are based upon the first of the causes there stated. If they are based upon the second of said causes the presumption will be in favor of the second denouncer.

Art. 116. Within the term of three years counted from the date of the issuance of a title the Department of Fomento may take action to annul the same on the ground that it has been obtained through fraud or bad faith. The provisions of this article shall not prejudice the rights of a third party to take action for the annulment of a title.

Art. 117. The actions referred to in Paragraphs I, II, III and V of Article 107 shall be prosecuted summarily in accordance with the provisions of the Federal Code of Civil Procedure, but the ordinary term for taking evidence shall be extended to forty days.[95]

Art. 118. In cases where expropriation is sought, the court shall make use of the methods for enforcing judicial orders established by the Federal Code of Civil Procedure in order to make effective the rights given to the owner of a mining property under Chapter VI of this law.

Art. 119. All questions raised by the owner of land which it is sought to expropriate, in opposition to the determinations of the Department of Fomento and all questions covered by Article

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[94] See Article 113.

[95] See Article 119.

94 shall be tried in a summary manner, the provisions of Article 117 being followed in so far as the time for taking evidence is concerned.

Art. 120. In order to determine and impose the punishment for the crimes referred to in Paragraphs VI and VII of Article 107 the provisions of the federal laws of procedure shall be followed.

Art. 121. The Government Attorney may intervene in any of the suits referred to in the preceding articles of this chapter in order to see that the proceedings are not illegally extended and he may accuse the parties of default and generally watch the proceedings in order that the law may be complied with. In such suits the Government Attorney shall follow the instructions which the Department of Fomento may communicate to him.

Art. 122. The final orders which may be entered in the suits referred to in Article 107 shall be communicated to the Department of Fomento by the court which enters them.

Art. 123. The suits which may be instituted based upon the contracts referred to in Article 79 shall be conducted before such judges as are competent under the common law to hear them in conformity with the provisions of the Commercial Code.

The suits relating to mining properties and involving subjects not comprised in Article 107 shall be tried before common law courts competent to hear them in accordance with the local laws, the Commercial Code or the Civil Code of the Federal District respectively.

CHAPTER IX.

Sundry Provisions.

Art. 124. Mining explorations shall be subject to the provisions of the Regulations[96] adopted under this law and also to special police mining regulations in accordance with the following principles:

I. In order to determine a zone of exploration, a fixed point and one easily identifiable shall be taken, which shall serve as the center of a circumference whose radius shall not exceed five hundred meters.

II. In order that explorations may be carried on in lands that are privately owned, the permission of the owner

[96] See Regulations 53 to 56. The special police mining regulations have not yet been published.

shall be required. If the owner refuses to give such permission, the person seeking such permission shall appeal to the Mining Agent who, after hearing the owner of the land and having followed the steps indicated by the Regulations, shall extend such permission if there is no legal impediment thereto, having first exacted a bond which the explorer must give to protect the property owner from any damage and loss which may be occasioned.[97]

III. Mining explorations on national lands can only be carried on by permission of the proper Mining Agent, who may not refuse such permission without due cause.[98]

IV. The length of time allowed for exploration shall be sixty days, which may not be extended and which shall be counted from the date of the execution of the proper permission when this is given by the Mining Agent, and from the date when such permission is recorded in the Agency when the private owner has given such permission.

V. During the period of exploration work only the explorer shall have the right of denouncing the mining pertenencias within the reserved zone.

VI. New permits for exploration of all or a part of any zone of exploration shall not be issued excepting after six months shall have transpired after the expiration of the former permit.

VII. In case of any contention between the explorer and the owner of the land regarding the limits of the zone of exploration, the burden of proof shall be on the explorer.

VIII. Zones of exploration will not be permitted in lands where mining work has been carried on, even when the pertenencias located there have been abandoned, nor will zones of exploration be allowed within a distance of two hundred meters of the boundary lines of a mining property, nor within the precincts of inhabited towns.[99]

IX. The special police mining regulations shall determine at what distance from buildings, railroads and other

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[97] See Regulations 7, 54 and 55.

[98] See Regulations 53.

[99] See Regulations 53.

structures, both public and private, the carrying on of exploration work shall be permitted.

Art. 125. The special police mining regulations shall determine in what cases and under what conditions the carrying on of mining work underneath buildings and other structures, both public and private, shall be permitted.

Art. 126. The Department of Fomento shall cause its inspectors to visit mining properties and inspect such machinery as may be installed thereon for mining purposes. These visits shall have for their object:

I. To determine whether the special police mining regulations and rules are being complied with.

II. To obtain scientific data and statistics with relation to mineral formations.

Art. 127. The Department may also order an inspection of a mining property at the petition of any interested party in order to ascertain if other properties are being encroached upon.

Art. 128. Whenever the Department of Fomento has reason to suppose that the work being done on a mining property encroaches upon unoccupied land, it may, on its own authority, order that the property be inspected to determine whether or not such encroachment is taking place.

Art. 129. In no case shall the inspectors in the course of their inspections make any investigations regarding the commercial condition of mining enterprises.

Art. 130. The Department of Fomento may order the suspension of mining work which is not being carried on in accordance with the Regulations or the police provisions, if it is endangering the life of persons who are working in the mines.

The order for the suspension of work shall be limited to that portion or district where there is danger and shall be based upon the statement of the inspector who may have visited the property or upon an investigation instituted by local authorities. The order suspending work shall remain in effect until the condition upon which it is based shall have been removed.

Art. 131. In urgent and extreme cases a suspension of work can be ordered at the petition of the Governor of the State or Jefe Politico of the Territory, without compliance with the conditions required in the preceding article.

Art. 132. In every case of suspension of work which is not based upon the report of an official inspector of the Department

of Fomento, that Department shall order, at the earliest possible moment, such an inspection to be made.

Art. 133. Coal mining operations which endanger the lives of the operatives, the safety of their work or the stability of the ground, shall be subject to the Regulations and to the special police mining regulations.

Art. 134. Dumps constitute an accession to the mining property from which the materials comprising them are taken. If it cannot be determined from what property the material comprising the dumps is taken, the ownership of the same shall be regulated exclusively by the common law.

Art. 135. The Department of Fomento may enter into contracts under such conditions as it may deem proper in each case for the exploitation of metallic substances found in the bed of waters under federal jurisdiction, provided the special laws regarding waters contain no provisions to the contrary.

Art. 136. No mining title shall be granted to foreigners who denounce pertenencias within a zone of eighty kilometers from the international boundary line unless they previously obtain special permission from the Executive of the Union.[100] This requisite is necessary even when the denouncement is made jointly by foreigners and natives.

If the permission is refused the land denounced shall be declared unoccupied and the provisions of Article 36 will be followed.

Art. 137. The permission referred to in the foregoing article is required in order that foreigners may acquire, by any other title, mining properties or real rights in the same within the aforesaid zone of eighty kilometers.[101]

Art. 138. The Regulations[102] shall determine the time within which the permission referred to in the two preceding articles shall be sought and the conditions under which it may be granted.

Art. 139. Foreign corporations are incapable of denouncing or acquiring by any title whatsoever mining properties or real rights in the same situated within the zone fixed by Article 136.[101]

Art. 140. Any acquisition made in contravention of Articles 136 to 139 of this law is null and void. An action to annul may be brought by any interested party or by the attorney of the

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[100] See Articles 139, 141 and 144; Regulations 59.

[101] See Articles 140 to 144; Regulations 59.

[102] See Regulations 59.

federal government acting under instructions of the Department of Fomento.

Art. 141. Whenever a foreigner acquires mining properties or real rights in the same within the zone fixed by Article 136, by inheritance or by judicial adjudication in payment of a debt, he shall be allowed a period of one year to convey said property excepting when, prior to the expiration of that period, he shall have obtained the permission referred to in Article 137.

Art. 142. Whenever a foreign corporation acquires mining property by succession or judicial adjudication in payment of a debt it must convey such property in every case within the period of one year.[103]

Art. 143. The judicial authorities who have jurisdiction over the inheritance or adjudication proceedings referred to in the preceding articles shall give due notice to the Department of Fomento of the pendency of such proceedings.

Art. 144. The Executive of the Union, acting through the Government Attorney, shall institute proceedings to recover mining properties and rights acquired or possessed in contravention of the provisions of Articles 136, 137, 139, 141 and 142.

The property recovered shall be sold at public auction, in accordance with the provisions of the Federal Code of Civil Procedure, and the proceeds of said sale, less the expenses and taxes, shall be subject to the order of the interested parties.

Art. 145. Any person may pay the taxes on a mining property, but only one who can show that he has a lawful interest in preventing the lapse of the title shall have the right to demand of the owner of the property reimbursement for what he may have paid.[104]

In this last case the debt founded upon the payment of a mining tax shall be considered a preference ahead of any other debts which are to be paid out of the proceeds of the property, including mortgage debts.

Art. 146. In default of an express provision of this Law, the terms indicated herein and those fixed by the Regulations shall begin to run from the day following that on which a notice shall have been served or a proceeding taken, the day of maturity being counted. Sundays, national feast days and holidays shall not be included in the computation of terms.[105]

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[103] See Article 144.

[104] See Article 51.

[105] See Article 147.

Art. 147. The rules established by the preceding article shall not be applied to the periods relating to prescription and to judicial terms, which shall be computed in accordance with the provisions of the respective laws.

Art. 148. The right to open and exploit tunnels is denied to those owners who have not complied with the provisions of the laws or of the concessions by virtue of which their rights were acquired.

Art. 149. The Department of Fomento shall determine the number of Mining Agents and the territory in which each shall exercise his authority, taking into account the requirements for the dispatch of business in each branch. That Department shall also settle all doubts and questions which may arise with respect to the competency of Mining Agents.[106]

Art. 150. The services of Mining Agents shall be paid for in accordance with the schedule of fees issued by the Department of Fomento.[107]

Art. 151. Whenever the owner of a mining property shows satisfactorily to the Department of Fomento that his original title has been lost or destroyed, a duplicate will be issued at his expense, in which the reason for such issue shall be stated.

Art. 152. The mining titles issued by the Department of Fomento shall be executed only by the Secretary of that Department.[108]

Art. 153. The Department of Fomento shall issue the general Regulations under this law, the special police mining regulations and the other rules which have for their object the carrying out of the provisions of this Law.[109]

TRANSITORY ARTICLES.

Art. 1. The present Law shall go into effect the first day of January, 1910.

Art. 2. The contracts for the exploration of mining zones shall continue in force in accordance with their respective provisions.

Art. 3. Mining proceedings which may be pending on the first of January, 1910, shall be continued and shall be decided in conformity with the provisions of this Law.

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[106] See Regulations 2 and 3.

[107] See Article 35; Regulations 12; Schedule 1 to 12, page 50.

[108] See Article 11.

[109] For the Regulations see page 33. The special police mining regulations have not yet been published.

Art. 4. Suits which are being tried before the courts of the common law regarding any of the matters enumerated in Article 107 of this Law shall be transferred in whatever state and condition they may be to the jurisdiction of the federal tribunals. The common law tribunals, without the petition of any party being required, shall send the pleadings to the proper federal judge or tribunal within the term of thirty days, counting from the first of January, 1910.

Cases pending on appeal at the time when this Law goes into effect shall be considered and decided by the tribunals which are considering the same in conformity with the provisions of the common law applicable thereto.

Art. 5. The owners of mining properties who may not have complied with the provisions of the first part of Article 2 of the Law of June 6, 1892, are given a term of six months to establish before the Department of Fomento the fact that they have fulfilled the conditions required by the laws under which their titles were issued in order to preserve their ownership. When this term has expired without proper showing having been made, the title shall be considered lapsed without the necessity of any special declaration to that effect, and the properties covered thereby shall be denounceable as unoccupied land.

Art. 6. The mining titles, acts and contracts registered before the first of January, 1910, in accordance with the provisions of the Mining Law of June 4, 1892, and its regulations, shall not need to be newly registered in order that their legal effect may be preserved. The titles, acts and contracts which this Law requires to be recorded and which have not been recorded shall be recorded and shall affect the rights of third parties as of the date of such recording.

Art. 7. The owners of mining properties who may not have marked the boundaries of their properties with monuments, are given the term of one year for that purpose. Whoever does not comply with this provision shall be responsible for the losses and damages which may be occassioned to any third party and further, may be fined from one hundred to five hundred pesos which fine shall be imposed by the Department of Fomento upon receiving satisfactory proof of such infraction of the law.

If, after a fine has been imposed, the person responsible therefor continues in default for a period of thirty days, he shall be cited before the proper judicial authority in order that he may be punished for the crime of disobedience of the lawful order

of a public authority, without prejudice to the right of the Department of Fomento to order such monuments to be constructed at the expense of the interested party.

Art. 8. From the date on which this Law goes into effect all existing provisions, even those contained in special laws, which establish any preferential rights with respect to the acquisition or denouncement of mining properties, shall be rescinded.

Art. 9. All the laws and provisions regarding mining, with the exception of those fiscal in character (which latter shall continue in full force so far as they are not modified by the present Law), shall be rescinded from the date when this Law goes into effect.

REGULATIONS.[1]

CHAPTER L.

Mining Agents.

Art. 1. Agents of the Department of Fomento in the Bureau of Mines are required to be Mexican citizens in due exercise of their rights as citizens.

Art. 2. Mining Agents which the Department of Fomento may appoint in accordance with Article 149 of the Law shall receive and act upon denouncements of mining properties which may be filed with them and shall perform the duties which may be required of them by the Law, the Regulations and the orders issued by said Department.

In case of any doubt regarding the application of the Law, the Regulations and Department orders Mining Agents shall consult with the Department of Fomento.

Art. 3. Upon the establishment of a Mining Agency in conformity with the provisions of Article 149 of the Law, the Department of Fomento shall fix the boundaries of the District allotted to said Agency and shall publish notice thereof, as well as of later changes, in the "Diario Oficial" of the Federal Government and in the Official Publication of the proper state and said notice shall also be posted for thirty days on the bulletin board of the Agency thus established.

Art. 4. In each Mining Agency there shall be named an Agent in Chief and such Assistants as the volume of the mining business of such Agency may require.

Such Assistants shall perform the same duties as the Agents in Chief and shall act for the latter during any temporary disability and also in those cases in which, because of some legal impediment in a certain business, the Agent is prevented from acting and calls upon an Assistant to act for him.[2]

[1] These Regulations were adopted by the Department of Fomento December 16th, 1909, in accordance with the provisions of Article 153 of the Mining Law.

[2] See Regulations 9.

Art. 5. Whenever an Agent is compelled to be absent for fifteen days or less he may call upon an Assistant to act for him and shall give notice of such absence to the Department of Fomento by mail and also by telegraph if possible.

Whenever the Agent proposes to be absent a longer period he must first obtain permission from said Department notifying it of the reason for his absence and the time it is expected to last in order that the Department may pass upon the matter properly.

Art. 6. In case of death or serious illness which may prevent an Agent from appointing his Assistant to act for him the latter shall report in the speediest manner possible to the Department of Fomento advising it of the circumstances in order that said Department may place an Assistant in charge of the Agency. This shall be done by the local Chief of Hacienda and in the presence of two witnesses. If there is no Chief of Hacienda the Federal Stamp Agent shall act and in default of such Agent the Postmaster. In all such cases a statement shall be drawn up which shall be signed by all the officials, a copy being sent to the Department of Fomento.

Art. 7. Mining Agents shall comply with the following:

I. They shall place on the outside of the Agency and in a place easily visible to the public a sign which shall read "Mining Agency of the Department of Fomento".

II. The office hours shall always be posted on the outside of the Agency and these must be strictly kept excepting on Sundays, feast days and national holidays.[3]

III. On the outside of the Agency, or if that is not possible, at the entrance and in a conspicuous place easy of access by the public, there shall be placed a bulletin board on which the notices required by the Law, by these Regulations and by other orders and provisions shall be published.

IV. In a public place in the Agency and one easily accessible there shall be placed a clock which shall indicate the local time.

V. Agents shall open and keep up to date an inventory of the archives of the Agency.

[3] See Law, Article 146.

VI. They shall keep a register of denouncements, entering denouncements therein strictly in the order of their dates, numbered consecutively and without any blank lines being left between the successive entries.

VII. They shall keep a register of mining explorations in which shall be entered in the strict order of their dates the permits which may be issued or recorded and without blank lines being left between the successive entries.

VIII. They shall also keep a register of licensed experts, these including experts who may have received from an official establishment of the Republic licenses to exercise the profession of engineer and those whose titles may have been accepted or recognized by the Government.

IX. They shall send to the Department of Fomento, within the first ten days of each month, a detailed report of denouncements which may have been admitted and of notices and petitions for permits to explore also petitions for the rectification, reduction or subdivision of titled mining properties which may have been filed during the preceding month.

Art. 8. In any case where the Mining Agent is legally prevented from acting he shall note this fact and immediately appoint an Assistant to act in the matter; but if the matter involves the filing of a denouncement or a written objection the Agent himself shall note the date and hour of such filing.

Art. 9. A Mining Agent shall be excused from serving in the following cases which constitute legal impediments[4]:

I. Whenever he has a direct or indirect interest in a matter.

II. Whenever any of his blood relatives in the direct line, without any limitation as to the degree of consanguinity, or any of his collateral relatives within the fourth degree, or any of his relatives by marriage within the second degree has any such interest.

III. Whenever the Agent is a partner, employee or manager of any of the parties.

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[4] See Regulations 4.

IV. Whenever the Agent has been attorney, solicitor or expert in the same matter.

Art. 10. In those places in the Republic which are not comprised within the limits of any Mining Agency denouncements of mining properties, notices and applications for permits for explorations shall be filed with the Postmaster who shall endorse on the denouncement, notice or application for permit the date and hour when it is filed and shall immediately notify the Department of Fomento by mail and also by telegraph if possible.

Art. 11. An appeal from the order of a Mining Agent referred to in Article 48 of the Law shall not operate to suspend the proceedings except in those cases in which the Law, the Regulations and other orders which may be issued expressly so direct.

Art. 12. Mining Agents shall collect their fees in accordance with the provisions of the schedule which the Department of Fomento shall publish.[5]

CHAPTER II.

Denouncements of Mining Properties.

Art. 13. Denouncements shall be filed in the Mining Agency within the jurisdiction of which the property denounced is located.[6]

Art. 14. If the property is located within districts allotted to two or more Agencies the denouncement may be filed in either Agency.

Art. 15. If several denouncements of the same property are filed in different Agencies, all of which have jurisdiction, only that denouncement will be valid which is first filed and the proceedings shall be conducted in the Agency in which that denouncement was filed.

Art. 16. In the denouncement there shall be stated, in addition to the data referred to in Article 15 of the Law, a fixed point from which measurements are to be made and, in order to easily identify the land where the pertenencias are located,

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[5] See Law, Articles 35 and 150; also Schedule of Fees, page 50.

[6] See Law, Article 15.

there shall also be stated any well-known points which there may be in the vicinity.

Art. 17. No denouncement shall be admitted unless the names of the denouncers are specifically and individually set forth therein nor unless the denouncement is signed by the person or persons named therein or by his or their legal representative.[7]

Art. 18. Within the three days[8] following the admission[9] of a denouncement the Mining Agent shall name an expert to measure the pertenencias and demasias denounced and make a map on which must be indicated clearly the points on the perimeter of the property denounced where monuments are to be constructed and also the monuments which are found within a zone of a hundred meters surrounding the property denounced and located on adjoining or neighboring mining properties.[10]

The Agent shall appoint as expert the one proposed by the petitioner in his denouncement provided such expert is duly licensed.

If the interested party does not propose an expert in his denouncement or if the one proposed is not licensed the Agent shall himself choose the expert, giving preference in every case to the licensed experts of the place and only when there are no such experts shall he name a practical man. In any case the appointee must, in the judgment of the Agent, possess sufficient ability to satisfactorily discharge the duties of an expert.

Art. 19. Whenever an Agent refuses to appoint the expert proposed he shall state the reasons for such refusal. The interested party may file a complaint with the Department of Fomento, through the Agency, because of such refusal, within three days following the date on which he is notified thereof.[11] When this time has passed the appointment shall be held final and irrevocable. The Agent shall send on any complaint to the Department of Fomento within three days following the date when it is filed. From the date when the complaint is filed until the Agency receives the finding of the Department

[7] See Law, Article 20.
[8] See Law, Article 146.
[9] See Law, Article 23.
[10] See Regulations 21, 24, 27, 29 and 46.
[11] See Law, Article 146.

of Fomento in the matter the proceedings for the issuance of the title shall be suspended. The Agent shall note on the proceedings all the facts.

Art. 20. When his appointment has been communicated to the expert he shall answer the Agent within the term of eight days stating whether or not he accepts the appointment. If the appointee does not accept or fails to answer, the Agent shall notify the denouncer of that fact in order that he may suggest a new licensed expert, if he made use of that right when he filed his denouncement, and the appointment of the new expert shall be perfected in accordance with the provisions of the two foregoing articles. The appointment must be made within the term of fifteen days, at the end of which time, unless the acceptance of the expert is obtained, a copy of the proceedings shall be sent to the Department of Fomento which shall thereupon announce a discontinuance of the denouncement and such announcement shall be published eight days on the bulletin board of the Agency. When this period has elapsed anyone may denounce the property.[12]

The Agent shall record the various steps in the proceedings.

Art. 21. Whenever the appointment of the expert has been accepted and confirmed, the Agent shall fix a period of sixty days[13] which may not be extended and within which the map referred to in Article 18 (Regulations), accompanied by a detailed report, must be filed.

The Agent will issue in duplicate an extract which shall contain:

I. An extract of the denouncement containing clearly and exactly the name and residence of the denouncer and the serial number of the proceedings.

II. The name, residence and formal acceptance of the expert.

III. The statement that the fixed period of one hundred and twenty days counted from the date of the extract, has begun to run and that within that time the proceedings before the Agency must be concluded.[14]

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[12] See Law, Article 13; Regulations 36.

[13] See Law, Article 146.

[14] See Law, Articles 37 and 38; Regulations 31, 42, 45 and 46.

A copy of this extract shall be placed on the bulletin board of the Agency and shall remain there thirty days.[15]

The other copy of the extract shall be delivered to the person denouncing in order that at his expense and risk and within forty days after the date of the extract it may be published three consecutive times in the Official Publication of the proper state, territory or Federal District. The person denouncing shall deliver to the Agency before the end of the one hundred and twenty days referred to in Paragraph III, copies of the aforesaid publication in which the extract was duly published, in order that they may be attached to the proceedings.

All these steps shall be duly entered in the record of the proceedings.

Art. 22. The Agent shall deliver to the expert a certified copy of his appointment which shall conclude with the formal notice that whoever resists the carrying out of the field work which must be done by the expert shall be liable to the penalties provided for in Article 106 of the Law.[16]

Art. 23. The publication of the extract as provided in Article 21 (Regulations) shall serve to notify all those who may consider that they have any right to offer objections to the denouncement of the mining property covered thereby, to duly file such objections.[17]

Art. 24. The steps which must be taken on the ground by the expert named in accordance with the provisions of Article 18 (Regulations) shall be so conducted that the lengths of the horizontal projections of the lines forming the perimeter of the mining property and the angles between said lines and the astronomical meridian may be determined scientifically. One or more of the corners of the perimeter shall refer to at least two fixed points on the ground, or to only one fixed point if the distance to said point is also determined, and the data necessary to prove and correct the work of the expert shall be recorded. The location and measurement of the property on the ground does not confer any right to occupy the same and serves merely to define the boundaries of the aforesaid mining property.

[15] See Regulations 23.

[16] See Regulations 29.

[17] See Law, Articles 37 and 38.

Art. 25. The maps of mining properties must, for their proper preservation, be printed on paper mounted on linen and the copies thereof shall be made on linen tracing paper. These maps shall contain the following data:

I. The name of the mine; the place where it is situated; the Municipality, District, Division, Canton or Department; the respective State, Territory or Federal District and other data which will serve to identify the mining property.

II. The lengths of the horizontal projections of the sides of the perimeter of the mining property and the azimuths of said sides, that is, their directions with reference to the astronomical meridian.

III. The extent in hectaras comprised within the horizontal projection of the property.

IV. The scale, which must be entirely decimal.

V. Even when a compass has been used the astronomical meridian only shall be indicated and this shall be represented by a line parallel to the right edge of the paper on which the map is printed and turned to the eastward enough so that its upper point will indicate the astronomical north.

VI. The bearings with reference to fixed and well-known points on the ground.

VII. The adjoining mining properties.

VIII. The proper date and the signature of the expert.

Art. 26. The explanatory report referring to the measurement of mining properties is required to contain, besides the description of the technical operations involved, all the data indicated on the map in order that, in case of necessity, a map may be reconstructed entirely from the data contained in the report. The report shall also contain data showing the location of the property and the relative location of the pertenencias comprising it as they are described in the denouncement and shall further explain any discrepancies that may exist between the report and the denouncement.

Art. 27. The expert shall cause to be constructed in the places where monuments are to be erected in accordance with the provisions of Article 18 (Regulations) solid foundations

of rubble stone masonry, not less than fifty centimeters in height, level on top and square in shape, each side being not less than fifty centimeters. On these bases shall be marked signs which will permit the easy recognition and identification of each of such monuments in accordance with the data indicated on the map.

Art. 28. The expert shall follow the terms of the denouncement in locating and measuring pertenencias and shall indicate on the map not only the monuments of the adjoining mining properties which may be found outside of the pertenencias under denouncement but also those which may be found within the denounced pertenencias and shall record such facts as may be brought to his attention by the denouncer, by the owners of adjoining properties or by anyone who may consider himself harmed by his acts.

Art. 29. If, in performing the work referred to in Article 18 (Regulations), any actual resistance should be offered to the expert he may call upon the local authorities for assistance.[18]

Art. 30. When the report of the expert is finally presented to the Agency, notice of that fact shall be published for fifteen days on the bulletin board of the Agency.

Art. 31. When the one hundred and twenty days referred to in Article 21 (Regulations) shall have elapsed without any objection having been filed or if there has been an objection filed which is based on any of the matters referred to in Article 43 of the Law or if the proceedings have been sent back to the Agency by a court with a final order favorable to the denouncer, the Agent shall, within fifteen days thereafter, make a copy of all the proceedings and send it by registered mail to the Department of Fomento together with three copies of the map. In said copy shall be included a complete copy of the extract of the denouncement.[19]

Art. 32. In accordance with the provisions of Article 27 of the Law the interested party shall be notified that a period of thirty days is allowed to him within which to erect the monuments and to certify to the fact of such erection. For this purpose a copy of the map shall be sent to him which he shall

[18] See Law, Article 106; Regulations 22.

[19] See Law, Articles 37 and 38.

return duly certified showing the exact places where monuments have been placed and the different signs that have been placed thereon. Said certificate shall show as a matter of certain fact that the monuments have been erected at the places on the ground indicated on the aforesaid map and shall be attested if possible by the expert who made the map or by another licensed expert or if there is none, then by some practical expert of recognized ability.[20]

Art. 33. The following rules shall be observed in the placing of monuments:

I. The position of monuments shall not be changed so long as the mining properties for which they serve as monuments are not changed. They shall be solidly constructed and shall always be kept in good condition.[21]

II. They shall be placed in convenient locations in whatever number may be necessary in order that from each of said monuments the monument on each side thereof may be seen and they shall be distinguished from the monuments erected on adjoining mining properties by their dimensions, form, color or some other characteristic.

Art. 34. When the title of a mining property has been issued it will be delivered to the interested party or it will be sent to him through the Mining Agent together with one of the copies of the map sealed by the Department of Fomento. That department shall give notice to the Department of Hacienda of the issuance of the title.[22]

As soon as the Agent receives the title for delivery to the interested party he shall post a notice on the bulletin board for a period of thirty days notifying the interested party to come and take up his title. If said period should elapse without the interested party taking up the title it shall be attached to the proceedings together with the notice above referred to.

The title must remain in the Agency at the disposition of the interested party until the latter actually receives notice of the announcement of the forfeiture of the property. If this point is reached without the document having been claimed it shall be returned to the Department of Fomento.

[20] See Regulations 47 and 49.

[21] See Law, Article 105.

[22] See Law, Articles 151 and 162.

Art. 35. The publication referred to in Article 50 of the Law shall be made for thirty days on the bulletin board and for ten consecutive times in the Official Publication of the proper state, territory or Federal District.

Art. 36. The notice in which a mining property is declared unlocated shall be published for twenty days on the bulletin board of the Agency, the time being counted from the day and hour when the notice is posted until the same hour of the final day, not counting Sundays, feast days or holidays.[23]

CHAPTER III.

Objections.

Art. 37. Only during the ninety days immediately following the date of the publication of the extract[24] may objections be filed which are based upon any of the points indicated in Paragraphs I and II of Article 37 of the Law.[25]

Art. 38. The Agent, as soon as he receives a written objection, shall give notice thereof to the denouncer by publication for ten consecutive days on the bulletin board, in which notice shall be stated the names of the objector and of the denouncer and the serial number of the proceedings. An entry shall be made in the proceedings showing that the publication has been duly made and the original of the published notice shall be attached to the proceedings.

Art. 39. The same day on which the Agent receives the report and maps from the expert he shall summon the interested parties to a meeting which shall be held within fifteen days thereafter. This summons shall be given by means of an order which shall be sent by registered mail and which shall also be published on the bulletin board for three consecutive days, the receipt for the registered letter and the original notice being attached to the proceedings.

At the meeting the Agent shall seek to bring the parties to an agreement in order to prevent any judicial action. A record

[23] See Law, Articles 13 and 146; Regulations 20. Article 13 of the Law and Article 20 of the Regulations provide for different publication in certain cases.

[24] See Regulations 21.

[25] See Law, Article 115; Regulations 41.

of everything that transpires shall be attached to the proceedings.[26]

Art. 40. If at the meeting the parties do not reach an agreement nor exercise their option in favor of administrative action the Agent shall send the proceedings to the proper tribunal within the period indicated in Article 40 of the Law.[27]

Art. 41. In those cases where, the proceedings having been turned over to a court before the expiration of the ninety days referred to in Article 37 (Regulations), a new objection is presented which is based on one of the grounds referred to in Article 37 of the Law, the Agent shall not admit it and shall notify the objector that he must apply to the courts for the establishment of his rights. If the objection is based upon grounds other than those stated in the aforesaid Article 37 the Agent shall reserve action thereon and shall file the objection with the proceedings whenever he receives them from the court.

Art. 42. If, in the meeting of the interested parties, they should exercise their option in favor of administrative action a record of such determination shall be made which shall be signed by them and the consideration of the proceedings shall be continued until the end of the legal term indicated in Article 21 (Regulations).[28]

Art. 43. Whenever the Department of Fomento announces that an objection is to be considered which is based upon any of the matters referred to in Article 43 of the Law it shall give orders that the proceedings be conducted by the Agent as in the case of the objections referred to in Article 37 of the Law.

Art. 44. In passing upon objections in cases where the parties have exercised their option in favor of administrative action in accordance with Article 41 of the Law the Department of Fomento shall have the fullest jurisdiction to order such steps to be taken as it may deem proper in order to explain its judgment and after having heard the parties, who shall introduce such evidence as would tend to establish their respective rights, it shall determine the matter in accordance with the law.[29]

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[26] See Law, Articles 32, 39 and 45.

[27] See Law, Article 39.

[28] See Law, Articles 37 to 39.

[29] See Law, Articles 37, 43 and 115.

CHAPTER IV.

Petitions for the Reduction of Denouncements, the Rectification, Reduction and Subdivision of Mining Properties, the Establishment of Easements, the Authorization of Mediums of Transportation, Explorations, Expropriation and Permits to Foreigners.

Art. 45. Petitions for the reduction of a denouncement which is still pending, must be published for twenty days on the bulletin board of the Agency and for a single time within that same period in the Official Publication of the proper state, territory or Federal District and the interested party must furnish one copy of the newspaper in which the publication has been made before the end of the term of one hundred and twenty days allowed for the conclusion of the proceedings.

If, at the time a reduction is petitioned for, the expert has not filed the maps, the Agent will notify him so that he may make new measurements and deliver his report and maps within the time yet remaining of the term of sixty days referred to in Article 21 (Regulations).

Whenever the maps have already been presented at the time a reduction is prayed for, the Agent shall instruct the same expert if possible and if not, he shall appoint another expert to make new measurements and file his report and maps within whatever time remains of the term of sixty days.

When the twenty days for the publication on the bulletin board have elapsed the Agent may admit denouncements of the excess, unoccupied ground.

Art. 46. Where a reduction of the number of pertenencias in a mining property, title to which has already been granted, is sought under the provisions of Article 52 of the Law, the appointment of the expert and the delivery of the necessary report and maps shall be made in accordance with the provisions of Articles 18, 19, 20 and 21 (Regulations).[30] When the report of the expert has been received by the Agent he shall send a copy of the proceedings to the Department of Fomento within fifteen days and shall accompany said copy with the title and

[30] See Regulations 45.

map as well as the other documents referred to in Article 50 (Regulations).

Art. 47. In case of the rectification of a mining property, title to which has been issued, which is sought in accordance with Article 53 of the Law, the proceedings shall be the same as for a new denouncement and the monuments shall be located in accordance with the provisions of Article 32 (Regulations).

When the proceedings have been concluded the Agent shall send a copy of them to the Department of Fomento and when the latter has approved them it shall give orders to the Agent to deliver to the interested party a certified copy of the later proceedings so that he may add it to his title of ownership.

Art. 48. Petitions for the rectification of titled mining properties, which are referred to in Articles 54 and 55 of the Law, shall be acted upon as in the case of a new denouncement.

Art. 49. Petitions for the subdivision of a mining property into two or more properties shall be directed to the Department of Fomento either directly or through the local Mining Agency together with such maps in quadruplicate as may be required for the proposed subdivision. A report shall accompany such petition which shall be made by a licensed expert and if there is no such expert, by a practical expert of recognized ability. The map shall be authenticated by the expert. The interested party shall, at the same time, deposit the documents and other papers mentioned in Article 50 (Regulations) as well as the stamps required on the new titles.[31] When the maps have been approved by the Department it will set a proper time in accordance with Article 32 (Regulations) for the establishment of the monuments to indicate the perimeters of the new properties and if the interested party does not carry out this direction his petition shall be considered abandoned.[32]

Art. 50. The following documents must accompany the petitions for reduction, rectification or subdivision of a mining property, title to which has already been issued.

I. The original title together with a map of said property.

II. Evidence showing that the property involved is up to date in the payment of federal mining taxes.

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[31] See Law, Article 16.

[32] See Law, Article 60.

III. Documents showing that the petitioner is the owner of the property or that he is legally authorized by the owner to file the petition.

V. In cases where reduction is sought it is also necessary to attach a certificate showing that the property is free from all encumbrance or to present a legal document showing the consent of the mortgage creditors to the proposed reduction.[33]

Art. 51. A report signed by a licensed expert or if there is none, by a practical expert of recognized ability, must accompany a petition for the establishment of an easement which is presented to the Department of Fomento in accordance with the provisions of Article 72 of the Law. Such report shall show the necessity for and the extent of the proposed easement.[34]

When the petition is presented the owner of the servient estate shall be summoned by official notice and notified that in case he does not appear on the day cited an order will be entered allowing the petition. The Department of Fomento, after having heard the owner of the servient estate or, in the event that he fails to attend on the day on which he is cited to appear, after having taken such other steps as it may consider necessary, shall announce its decision.[35]

Art. 52. Whenever the easement of passage referred to in Article 63 of the Law is sought to be imposed, the Department of Fomento shall in each case determine the methods of transportation which it considers proper. The interested parties shall file with their petition such reports and maps made by experts as they may think proper and shall send to the said Department all the data which it may consider necessary.[36]

Art. 53. Petitions for permits to explore unlocated property shall be presented in duplicate together with a certificate issued by a licensed expert from which it appears that in the proposed zone of exploration no mining work has ever been done and that the boundaries of said zone are distant at least two hundred meters from the boundaries of the nearest mining properties.

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[33] See Law, Article 60; Regulations 46 and 49.

[34] See Law, Articles 63 and 87.

[35] See Law, Articles 61, 71, 82, 84 and 109.

[36] See Law, Article 87.

The Agent shall return to the interested party the duplicate of his petition after having noted thereon the day and hour when it is filed.[37]

Art. 54. If the exploration is to be made on land belonging to a private owner the explorer shall petition the owner or his representative for the necessary permit. In case either one of them gives him such permit he will execute to the explorer a proper document which shall be presented to the Mining Agent in order that he may register the same and return it. The explorer must prove that the person who executed the permit is the owner of the land or that he is duly authorized by the owner to execute such permit.

Art. 55. If the explorer should not obtain a permit from the owner or from his representative he may petition the Mining Agent for such permit stating in his petition the residence of the owner and the name of a surety whom he proposes as security for the damages and losses which may be occasioned by the exploration work. The Agent shall publish the petition on the bulletin board for fifteen days and shall notify the owner by an official notice advising him that if he does nothing in reply thereto he will be understood to consent to the petition. When the period fixed for the publication of the notice has passed the Agent shall set a period of thirty days for the execution and approval of the bond which will be taken under his responsibility. When the bond is executed the Agent shall give to the explorer the necessary permit in which the location of the zone of exploration and the fixed point which shall serve as its center shall be stated.

Art. 56. The Agent shall publish on the bulletin board for thirty days an extract of the permit which shall contain the name of the explorer, the fixed point of easy identification which serves as a center for the zone of exploration, the location of said zone, the day on which the period mentioned in Paragraph IV of Article 124 of the Law commences and the day on which it terminates.

In every case the Agent shall endorse on the permit or on the proof of the notice that the exploration work shall be subject to the provisions of the Mining Police Regulations.[38]

[37] See Law, Article 124.

[38] These have not yet been published.

Art. 57. Petitions for expropriation referred to in Article 88 of the Law shall be presented to the Department of Fomento directly or through the local Mining Agent accompanied by a report made by a licensed expert or if there is no such expert, by a practical expert of recognized ability and by the proper maps authenticated by such expert so that the Department of Fomento after considering all the facts of the case and having heard the owner of the land, may enter a proper order.[39]

Art. 58. The publication referred to in Article 95 of the Law shall be made for thirty days on the bulletin board of the Agency and in the *Diario Oficial* of the federal government.

Art. 59. Petitions for the permits referred to in Articles 136, 137 and 138 of the Law shall be directed to the Department of Fomento either directly or through the local Mining Agent at the time when a denouncement is presented or within the sixty days following its admission.

These permits shall be issued with the understanding which shall be expressly stated therein, that mining properties are wholly subject to the Mexican laws, that no right or claim based upon foreign citizenship may be made with respect thereto, that the courts of the Republic are the only courts competent to consider any question which may arise regarding such properties, and that the intervention of any foreign authority will not be permitted.

[39] See Law, Articles 87, 107, 118 and 119; Regulations 51 and 52.

SCHEDULE

FOR THE PAYMENT OF FEES TO THE AGENTS OF THE DEPARTMENT OF FOMENTO, BUREAU OF MINES.[40]

Art. 1. Upon the filing of a notice of the exploration of lands belonging to private parties accompanied by the permit of the owner of said land or upon the filing of a petition for the permit for the exploration of government lands there shall be paid four pesos for all the proceedings but if the permit is sought from the Agency in a case where the owner of the land does not wish to give such a permit, eight pesos shall be paid for all the proceedings.

Art. 2. For the complete proceedings in connection with a denouncement up to the delivery of the title including a copy of the proceedings unless during the proceedings a reduction of the number of pertenencias is petitioned or an objection is filed there shall be paid in the following order, the following fees:

I. Two pesos at the time of the filing of the denouncement, for the registration thereof.

II. Ten pesos when the Agent admits the denouncement.

III. Eighteen pesos when the denouncer receives the copy of the extract of the petition, for publication.

Art. 3. For the proceedings based upon a petition for the reduction of the pertenencias in a denouncement which is pending, eight pesos upon the presentation of said petition.

Art. 4. For the complete proceedings in connection with the petition for the rectification of a mining property, title to which has already been issued, in any of the cases mentioned in Articles 53, 54 and 55 of the Law, up to the time when the new title or the copy of the later proceedings which are to be

[40] See Law, Article 35; Regulations 12. This Schedule of Fees was published by the Department of Fomento December 16, 1909.

attached to the old title is delivered, unless during said proceedings objections are filed, there shall be paid in the following order the following fees:

I. Ten pesos at the time of the presentation of the petition,

II. Eighteen pesos at the time the petitioner receives the copy of the extract of the petition for publication.

Art. 5. For the proceedings in connection with a petition for the subdivision of a mining property, up to the delivery of the titles to the new properties, there shall be paid five pesos at the time the petition is filed.

Art. 6. For all the proceedings with reference to the reduction of pertenencias in a mining property, title to which has already been issued, ten pesos which shall be paid at the time the petition is filed.

Art. 7. For all the proceedings with relation to petitions for expropriation or for an easement if the Agent takes any part therein there shall be paid in each case at the time the petition is filed.[41]

Art. 8. In case of an objection to a denouncement the denouncer shall pay for the proceedings before the Agency ten pesos at the time the meeting for the purpose of securing an agreement of the parties is held and shall reserve the right to recover said payment from the objector in a suit brought for that purpose.

Art. 9. For the copy of the orders which may have been entered in suits where objections to the denouncement of mining properties are determined, which copy shall include all the proceedings which the Agent sends to the Department of Fomento, at the rate of two pesos for each sheet or fraction thereof.

Art. 10. For the scrutiny and authentication of maps, two pesos.

For the certified copy of the report of an expert and for all kinds of documents which Mining Agents may issue at the petition of the interested parties, at the rate of two pesos for each sheet or fraction thereof.

For noting upon any document the fact of its having been filed, one peso.

[41] This article is evidently defective as the amount to be paid is omitted.

Art. 11. For searching for proceedings or other documents in the archives, one peso.

When the interested party does not furnish sufficient data and it is necessary to search through the documents belonging to more than one year, one peso for each year of the search.

Art. 12. The Agent shall be entitled to receive only those fees fixed by this schedule and shall consult with the Department of Fomento regarding what ought to be the amount of his fees in cases not provided for herein.

Art. 13. Whenever the course of the proceedings is interrupted for any reason which is not chargeable to the Agent he shall not be compelled to return the fees which he may have received.

Art. 14. If, on account of irregularities committed by a Mining Agent, it should be necessary to go through the proceedings a second time, this shall be done at the expense of the Agent who shall have no right to collect new fees for the same.

CHRONOLOGICAL OUTLINE OF MINING PROCEEDINGS AND GENERAL PROVISIONS

The several steps in the proceedings by which a license can be obtained from the Government to operate or explore mining property are detailed in the Law and Regulations but not chronologically. In order to give a comprehensive idea of the entire proceedings from the time a denouncement or petition is filed until the title is issued or final order entered, a statement or outline of the successive steps, with references to the provisions of the law which affect each step, is appended. The provisions that refer to expropriation, the establishment of easements, the reduction, rectification and subdivision of pertenencias and mining properties and the rules regarding the ownership of mines within the free zone by foreigners and foreign corporations are also grouped together under their proper headings in the following table.

("L" refers to Law; "R" to Regulations; "S" to Schedule of Fees; all numbers refer to articles and are inclusive.)

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